

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF OCTOBER
TWO THOUSAND AND SEVEN

PRESENT

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.18996 OF 2000

Between:

J.Linga Raju and others.

.... PETITIONERS

AND

The Deputy Collector,
Tribal Welfare, Rampachodavaram,
East Godavari District, and others.

....RESPONDENTS

**THE HON'BLE SRI JUSTICE
C.Y.SOMAYAJULU**

WRIT PETITION No.18996 OF 2000

ORDER

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Petitioners acquired Ac.13.95 cents of land at Nellipudi Village, Gangavaram Mandal, East Godavari District in 1964 from Korumilli Krishna Swamy and Babu Rao – grandfather and father respectively of fourth respondent respectively. Subsequently, fourth respondent filed LTRP No.74 of 1990 under the A.P. (Schedule Area) Land Transfer Regulation, 1954 (for Regulation) for recovery of Ac.13.95 cents of land alleging that he belongs to Scheduled Tribe (Valmiki), and so, the transfer made in favour of the petitioners by his father and grandfather was not valid. Though the petitioners contested the petition disputing the caste of the fourth respondent as a Valmiki, the Primary Tribunal allowed the petition. Aggrieved by that, petitioners preferred C.M.A.No.21 of 1991 to the Agent to Government, Kakinada (third respondent), which was dismissed. Hence, they filed W.P.No.4732 of 1992 questioning the dismissal of C.M.A.No.21 of 1991, which also was dismissed. Aggrieved thereby, they preferred W.A.No.1312 of 1996, which also was dismissed.

2. Disputing the caste certificate issued to the fourth respondent as Valmiki, petitioners filed an application before the Collector to cancel that caste certificate issued to the fourth respondent. The Collector by his order dated 06.07.2000 in his proceedings

R.Dis.C.No.5/8787/97, cancelled the caste certificate of the fourth respondent and that order became final. In view thereof petitioners, by this petition, are seeking the order in LTRP No.74 of 1990, confirmed in C.M.A.No.21 of 1991, W.P.No.4732 of 1992 and W.A.No.1312 of 1996 being set aside on the ground of the fourth respondent not being a member of a Scheduled Tribe, the provisions of the Regulation do not apply to him.

3. Learned counsel for the petitioners states that inasmuch as the fourth respondent died on 02.08.2007 he served a memo on the counsel for the fourth respondent informing him about the death of the fourth respondent and that he did not leave behind either Class-I or II heirs, in view of the fact that the certificate issued to the fourth respondent was cancelled, the orders passed against the petitioners under the Regulation, at the behest of the fourth respondent, are liable to be set aside. There is no representation on behalf of the respondent.

4. Learned counsel for the petitioners strongly relying on **UNITED INDIA INSURANCE COMPANY LIMITED V/s. RAJENDRA SINGH**^[1] contends that inasmuch as the Court can set at naught the proceedings obtained by fraud, inasmuch as the fourth respondent obtained orders by playing fraud, the earlier proceedings are liable to be set aside.

5. Inasmuch as the caste certificate issued to the fourth respondent as Valmiki is cancelled, it is clear that he did not belong to Scheduled Tribe Community, and so, he cannot have the benefit of the provisions of the Regulations. But, I am of the considered opinion that the prayer sought by the petitioners cannot be granted to them in this writ petition. The remedy, if any, of the petitioners is to file a petition for review of the order in W.A.No.1312 of 1996, by bringing to the notice of the Court that inasmuch as the caste certificate issued to the fourth

respondent stood cancelled, the orders issued in his favour are liable to be set aside, because even in the case relied on by the learned counsel for the petitioners, the Insurance Company against whom fraud was played, moved the Tribunal for setting aside the order obtained by playing fraud. So, the proper remedy for the petitioners is to approach the concerned Court and inform the Court about the fraud played on it and make a request to set aside the earlier order. Petitioners cannot, by filing a separate writ petition seek for cancellation of the orders in another writ petition and writ appeal.

6. Therefore, granting liberty to the petitioner to file a petition for review of the order passed in W.A.No.1312 of 1996, the writ petition is dismissed. No costs.

JUSTICE C.Y.SOMAYAJULU

10th OCTOBER, 2007

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[\[1\]](#) 2000 AIR SCW 835